



# ETHICS: POST-EMPLOYMENT RULE

Presented by:

Heidi Adair - Staff Attorney

Jen Cooper - State Ethics Director

Kelly Elliott - Staff Attorney

Tiffany Mulligan - Chief Legal Counsel

Indiana Office of Inspector General



# Cooling Off/Revolving Door

IC 4-2-6-11(b)



## Executive Branch Lobbying: IC 4-2-6-11(b)(1)

- A former state officer, employee, or special state appointee may not accept employment or receive compensation:
  - (1) As a lobbyist;
    - ...
    - before the lapse of at least three hundred sixty-five (365) days after the date on which the former state officer, employee, or special state appointee ceases to be a state officer, employee, or special state appointee.



## Exceptions to the Registration Requirement

### "Lobbyist" Exceptions – 25 IAC 6-1-1 (8):

- Public Officials
- Attorneys in Administrative Proceedings
- Religious Organizations
- Media
- Bid Information Gathering
- INDOT Highway Contracts
- Personal Actors

### "Activity" Exceptions – 25 IAC 6-1-1 (7)

- Grant Awards
- Outstanding Tax Matters
- Indiana Economic Development Corporation
- Paid Advertising
- Public Hearings
- Requests for Proposals
- Solicitations from Agencies

For questions regarding these exceptions or for other information regarding executive branch lobbying, please contact IDOA's Tamera Glickman: Email: [tglickman@idoa.in.gov](mailto:tglickman@idoa.in.gov); Phone: 317-234-8851



## Contracts: IC 4-2-6-11(b)(2)

- A former state officer, employee, or special state appointee may not accept employment or receive compensation:
- ...
- (2) from an employer if the former state officer, employee, or special state appointee was
  - (A) engaged in the negotiation or the administration of one (1) or more contracts with that employer on behalf of the state or an agency; *and*



## Contracts: IC 4-2-6-11(b)(2)

(B) In a position to make a discretionary decision affecting the:

- (i) Outcome of the negotiation; or
- (ii) Nature of the administration

...

before the lapse of at least three hundred sixty-five (365) days after the date on which the former state officer, employee, or special state appointee ceases to be a state officer, employee, or special state appointee.



## Contracts: IC 4-2-6-11(b)(2)

### Takeaways:

- Need to both administer and/or negotiate a contract **AND** be in a position to make a discretionary decision affecting the outcome of the negotiation or nature of the administration
- Serving as a liaison, making referrals, scoring/making recommendations on RFPs as part of a committee not enough according to State Ethics Commission
- If anything is close it's best to request advice as there is no statutory definition for "administration" or "negotiation"



## Regulatory & Licensing: IC 4-2-6-11(b)(3)

- A former state officer, employee, or special state appointee may not accept employment or receive compensation:
  - ...
  - (3) from an employer if the former state officer, employee, or special state appointee made a regulatory or licensing decision that directly applied to the employer or a parent or subsidiary of the employer;  
before the lapse of at least three hundred sixty-five (365) days after the date on which the former state officer, employee, or special state appointee ceases to be a state officer, employee, or special state appointee.



# Particular Matters Restriction

IC 4-2-6-11(c)



After leaving state employment, you may not participate in any of the following **12 particular matters** if you personally and substantially participated in the matter as a state employee/special state appointee:

- |                         |                  |                                  |
|-------------------------|------------------|----------------------------------|
| 1. Application          | 5. License       | 9. Judicial proceeding           |
| 2. Business transaction | 6. Investigation | 10. Enforcement proceeding       |
| 3. Claim                | 7. Determination | 11. Public works project         |
| 4. Contract             | 8. Lawsuit       | 12. Economic development project |

The restriction lasts for the life of the matter, not just 365 days.



- Even though Joe never made any determinations regarding Torres Construction's work for Project 1 or worked on their contracts, he did personally and substantially participate in Project 1, a public works project, as an inspector.
- **As a result, Joe may not provide consulting services or assist Torres Construction with Project 1 or any other public works project in which he participated as an inspector on behalf of INDOT.**